

# OTIS & BEDINGFIELD, LLC

## ATTORNEYS AT LAW

### 2024 SUMMER NEWSLETTER



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#### Inside this issue:

Commercial Landlords & Property Managers Beware! Alleged discrimination may impede eviction Lee J. Morehead, Esq.	2
The Need for Estate Planning Corey W. Moore, Esq.	3
Welcome to New Legal Staff	
Corporate Transparency Act Update	4

**INTEGRITY. EXCELLENCE.  
LASTING RELATIONSHIPS.**



## Otis & Bedingfield Participates in BizWest's Northern Colorado Real Estate Summit

On April 4th Otis & Bedingfield, LLC Attorney Stacey L. Shea, Esq. served on a panel of experts in the BizWest Northern Colorado Real Estate Summit held in Fort Collins.

The conference covered many facets of the real estate industry, including residential, commercial, brokerage commissions for residential real estate, job growth forecast, housing policies, as well as a discussion of the lending outlook for commercial development in Northern Colorado.

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*Otis & Bedingfield, LLC is  
a Better Business  
Bureau Accredited  
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## Commercial Landlords & Property Managers Beware! Alleged Discrimination May Impede Eviction



By: Lee J. Morehead, Esq.  
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On February 20, 2024, the Colorado Supreme Court ruled that a tenant could allege violations of the Colorado Fair Housing Act as a defense to an eviction proceeding. Previously, tenants had to countersue for the alleged violations, thus allowing the eviction process to proceed while the discrimination claim was later determined. Under this recent ruling, however, tenants can avoid eviction if the reasons for the eviction were discriminatory.

The Colorado Supreme Court's decision allows commercial tenants to allege discrimination as a defense to eviction. When asserted, there is a higher likelihood that the eviction proceeding will:

- (1) be transferred from the County Court to the District Court; and
- (2) require a trial before the landlord can retake possession of the premises.

In either situation, if the landlord is represented by an attorney, the amount of fees will likely increase.

For instance, if a commercial tenant fails to pay rent or common area maintenance expenses, a landlord may initiate an eviction. The law provides that the commercial tenant must plead every defense they have available to them within the constraints of their lease agreement. A well-crafted commercial lease agreement will aim to mitigate most of a tenant's defenses, with the goal of providing for a timely eviction proceeding in compliance with due process of law.

Commercial tenants can, and have, alleged discrimination as a defense, forcing eviction proceedings into District Court and requiring a trial. Because The Colorado Supreme Court's decision is so recent, there are situations yet to be addressed and questions yet unanswered.

If you are a commercial landlord or property manager, it would be advisable to consult with an experienced Business attorney to develop a strategic plan regarding the handling of potential tenant defenses, including lease drafting, property management, and the eviction process itself.

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This newsletter is not an offer to represent you. You should not act, or refrain from acting based on information in this newsletter. The hiring of a lawyer is an important decision that should be based solely on written information about qualifications or experiences.

Anyone considering hiring a lawyer should independently investigate the lawyer's credentials and ability, and should not rely upon advertisements or self-proclaimed expertise.





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## The Need for Estate Planning



**By: Corey W. Moore Esq.**  
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Estate planning is not just for the wealthy or elderly; it is a vital task that every adult individual should undertake. At its core, estate planning involves making arrangements for the management and distribution of one's assets and belongings in the event of incapacity or death. While contemplating and discussing mortality may not be an enjoyable experience, the reality is that proactive estate planning is essential for protecting loved ones, preserving assets, and ensuring one's wishes are honored.

One of the primary reasons for estate planning is to provide clarity and direction for the distribution of assets. Without a valid estate plan in place, the fate of one's possessions and finances will be left to state statutes, which can lead to unintended outcomes, legal battles, unnecessary expenses, and potential conflicts among family members. By crafting a comprehensive estate plan, individuals can specify how their assets should be

charge of such distribution, thereby minimizing ambiguity and reducing the likelihood of disputes.

Moreover, estate planning is not solely about asset distribution; it also encompasses important decisions regarding healthcare and guardianship. Through documents such as a healthcare directive and power of attorneys, individuals can designate trusted individuals to make medical and financial decisions on their behalf in the event of incapacity. Similarly, parents can nominate guardians to care for minor children, ensuring their well-being and upbringing according to their wishes.

Additionally, estate planning can serve to minimize taxes and preserve wealth for future generations. By implementing strategies such as trusts, gifting, and charitable donations, individuals can mitigate estate taxes and maximize the value of their assets transferred to heirs. Furthermore, estate planning allows for the establishment of provisions to protect assets from creditors, ensuring that beneficiaries can fully benefit from their inheritance.

In essence, estate planning is not just about preparing for the end of life; it is about encouraging individuals to take control of their financial affairs and protect their loved ones. By engaging in thoughtful estate planning, individuals can secure their legacy, provide for their loved ones. By engaging in thoughtful estate planning, individuals can secure their legacy, provide for their families, and achieve peace of mind knowing that their wishes will be honored long after they are gone.



### IMPORTANT NOTICE FOR LLCs

Effective July 1, 2024, the Colorado Secretary of State's cost for the filing of the Annual Periodic Report has increased to \$25.



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## Otis & Bedingfield, LLC Welcomes New Team Members

### Jessica Miglarese, Associate Attorney



Otis & Bedingfield, LLC is pleased to announce a new member of our legal team, Jessica "Jessie" Miglarese, Esq.

Jessie's practice focuses on estate planning and administration. She advises clients on the various legal, tax, procedural, and practical considerations related to their estate plans, trust administration, and probate.

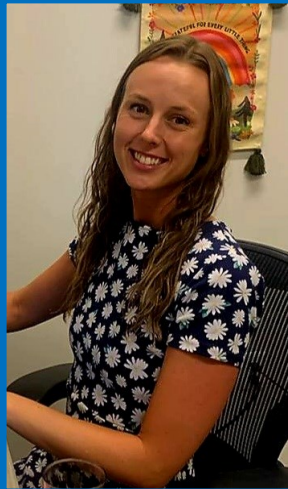
Jessie earned her undergraduate degree from Colorado State University and her law degree from Gonzaga University School of Law in Spokane, Washington. She is a member of the Colorado Bar Association, the Washington State Bar Association, the Weld and Larimer county bar associations. Welcome, Jes-

### Otis & Bedingfield, LLC

The attorneys at O&B are recognized leaders in real estate law and business law. We advocate for individuals, businesses, and families in the Northern Colorado region. Our clients are landowners, business owners, business professionals, businesses of all sizes, and individual families in need of guidance or representation in court proceedings involving commercial real estate.

For more information about our lawyers or practice areas, please visit our website at [www.nocoattorneys.com](http://www.nocoattorneys.com) or contact us at (970) 330-6700 OR (970) 663-7300.

### Nicole Goddard, Legal Assistant



### Andrew Dang, Legal Assistant



## Corporate Transparency Act Update

Just a reminder that Reporting Companies (LLCs or other similar entities) formed on or after January 1, 2024, must file a Beneficial Ownership Information (BOI) report electronically using FinCEN's security filing system within 90 days of filing organizational documents with a State or tribal office. For Reporting Companies in existence before January 1, 2024, the deadline to file the BOI report is January 1, 2025. Additionally, any change in BOI information must be reported to FinCEN within 30 days of the change.

Please let us know if you have questions regarding compliance with this new law.